

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

CASE NO: 22-30131-KRH

Address: CHARLES ANTHONY  
BARBETTINI, JR.,  
7812 LITTLE RIDGE CT  
CHESTERFIELD, VA 23832-  
7775

CHAPTER 13

Debtor(s).

**NOTICE OF HEARING**

Bosco Credit V Trust Series 2012-1, a creditor in this case, has filed papers with the court to object to the confirmation of the Chapter 13 plan with regard to certain property more particularly described in those papers which are attached.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you want the Court to consider your views on the Objection, then you or your attorney must:

File with the Court, at the address shown below, a written response. If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it before the date stated below.

United States Bankruptcy Court  
Richmond Division  
701 East Broad Street, Suite 4000  
Richmond, VA 23219-1888

You must also mail a copy of any such response to:

M. Christine Maggard, VSB# 33824  
Brock & Scott, PLLC  
8757 Red Oak Blvd., Suite 150  
Charlotte, NC 28217  
christine.maggard@brockandscott.com  
*Counsel for the Movant*

M. Christine Maggard, Esquire  
Brock & Scott, PLLC  
8757 Red Oak Blvd., Suite 150  
Charlotte, NC 28217

**Attend the hearing that will be conducted on May 4, 2022 at 11:10 AM.**

**REMOTE HEARING INFORMATION:**

Due to the COVID-19 public health emergency, no in-person hearings are being held.

This hearing will take place remotely through Zoom on the date and time scheduled herein.

To appear at the hearing, you must send, by email, a completed request form (the "Zoom Request Form"), which is available on the Court's internet website at [www.vaeb.courts.gov](http://www.vaeb.courts.gov), on the page titled, "Temporary Emergency Provisions Regarding ZoomGov Remote Proceeding Access Information." Email your completed Zoom Request Form to the email address listed for the Judge assigned to the case. Following receipt of your Zoom Request Form, Court staff will respond to the email address from which the request was submitted with additional information on how to participate through Zoom.

\*\*\*The email address shall be used only to submit Zoom Request Forms. No other matters or requests will be considered by Court staff, and under no circumstances will any such matters or requests be brought to the Judge's attention. Failure to comply with these instructions may result in appropriate action, including but not limited to the imposition of sanctions.\*\*\*

**PLEASE NOTE:** You MUST submit the Zoom Request Form no later than two (2) business days prior to this hearing. Any documentary evidence the parties wish to present at the hearing must be filed with the Court in advance of the hearing..

Dated: April 12, 2022

/s/ M. Christine Maggard  
M. Christine Maggard, VSB# 33824  
Brock & Scott, PLLC  
8757 Red Oak Blvd., Suite 150  
Charlotte, NC 28217  
christine.maggard@brockandscott.com  
*Counsel for the Movant*

**CERTIFICATE OF SERVICE**

The foregoing Notice was endorsed by and/or served upon all necessary parties pursuant to Local Rules by electronic notification and/or U.S. First Class Mail, postage pre-paid.

James E. Kane  
Kane & Papa, PC  
1313 E Cary St, P.O. Box 508  
Richmond, VA 23218  
*Counsel for Debtor*

CHARLES ANTHONY BARBETTINI, JR  
7812 LITTLE RIDGE CT  
CHESTERFIELD, VA 23832-7775  
*Debtor*

Suzanne E. Wade  
7202 Glen Forest Drive, Ste. 202  
Richmond, VA 23226  
*Trustee*

Dated: April 12, 2022

/s/ M. Christine Maggard  
M. Christine Maggard, VSB# 33824  
Brock & Scott, PLLC  
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Charlotte, NC 28217  
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*Counsel for the Movant*

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**OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**

COMES NOW, Bosco Credit V Trust Series 2012-1 (the “Secured Creditor”), and its successors and assigns, by and through its legal counsel, Brock & Scott, PLLC, and objects to confirmation of the Debtor’s Chapter 13 Plan, on the following grounds:

1. On January 18, 2022, Debtor(s) filed a voluntary petition in this Court under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. The Secured Creditor holds a secured claim by virtue of a second position Deed of Trust lien dated January 24, 2005 on real property (the “Property”) described in that Deed of Trust recorded in the County of Chesterfield, VA’s Circuit Court Clerk's Office, on January 25, 2005 at Deed Book 6187 at page 298 (the “Deed of Trust”) with an address of 7812 Little Ridge Court, Chesterfield, VA 23832.
3. The Secured Creditor holds or is otherwise entitled to enforce a promissory note (the “Note”) secured by the Deed of Trust from the Debtor in the original principal amount of \$54,400.00 and dated January 24, 2005.
4. Due the debtor’s multiple filings, the arrearage on the loan has escalated significantly beyond the principal amount of the original loan. Debtor and his spouse, since the

inception of the loan, have filed the following cases:

<u>Case Number</u>	<u>Debtor</u>	<u>Date Filed</u>	<u>Result</u>
11-37134	Charles & Tonia Barbettini	11/09/2011	Dismissed 3/27/2013
14-30052	Charles Barbettini	1/07/2014	Dismissed 2/21/2014
14-35128	Charles Barbettini	9/24/2014	Dismissed 5/06/2016
16-35239	Charles Barbettini	10/25/2016	Dismissed 12/07/2016
17-31129	Charles Barbettini	3/07/2017	Dismissed for Abuse 12/28/2017
19-34680	Charles & Tonia Barbettini	9/09/2019	Dismissed 2/07/2020
22-30131	Charles Barbettini	1/18/2022	Pending

5. The Secured Creditor does not accept and objects to the Debtor's proposed Plan. The total debt as of the date of filing was \$147,976.74.00 with pre-petition arrears in the amount of \$98,361.86, as stated in the Secured Creditor's Proof of Claim 7-1 filed February 1, 2022. The Debtor's proposed Plan intends to treat the Secured Creditor's total indebtedness as unsecured and impermissibly strip/avoid the deed of trust lien on the primary residence. The property is held as tenants by the entirety with the Debtor's non-filing spouse and the lien may not be stripped in the Debtor's bankruptcy case. In re Alvarez, 733 F.3d 136 (4<sup>th</sup> Cir. 2013) The Secured Creditor submits that the plan seeks to impermissibly modify the rights of the holder of a secured claim in violation of 11 U.S.C. §1322(b)(2).

6. According to Debtor's Schedules I and J, the Debtor and non-filing spouse's combined net monthly income, less expenses, is \$2,748.96; however, the proposed plan starting at month 2 through month 60, requires a monthly payment in the amount of \$3,578.00. The

Debtor's initial plan payment is in the amount of \$50.00. The Debtor fails to pay his disposable income into the plan for the initial month/payment. Additionally, the plan is underfunded in the amount of \$5,053.36 even if one excludes the arrearage of \$98,361.86 that is owed to this Secured Creditor. The plan is not feasible as the monthly net income, after expenses, is insufficient to fund the plan; therefore, the plan violates 11. U.S.C. §1325(a)(6), is not filed in good faith, and is not confirmable.

**WHEREFORE**, Bosco Credit V Trust Series 2012-1, and its successors and assigns, prays for the Court to sustain this Secured Creditor's Objection, deny confirmation of the plan, and to grant any such other and further relief as may be just and necessary.

Dated: April 12, 2022

/s/ M. Christine Maggard  
M. Christine Maggard, VSB# 33824  
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Charlotte, NC 28217  
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*Counsel for the Movant*

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1313 E Cary St, P.O. Box 508  
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Suzanne E. Wade  
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Date: April 12, 2022

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*Counsel for the Movant*